

## NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN THAT THE** Oneida County Planning & Development Committee will hold a public hearing on Wednesday, February 18, 2015 at 2:00 p.m. in County Board Room, Oneida County Courthouse, Rhinelander, WI 54501 on the following:

**Ordinance Amendment #1-2015** authored by the Planning and Development Committee to amend Section 9.32, Zoning Permit Requirement, 9.33, Exceptions to Zoning Permit Requirement of the Oneida County Zoning and Shoreland Protection Ordinance and;

**Ordinance Amendment #1-2015** authored by the Planning and Development Committee to amend Chapter 13, Oneida County Private Onsite Wastewater Treatment System Ordinance (POWTS) and:

**Ordinance Amendment #2-2015** authored by the Planning and Development Committee to amend Section 9.52, Mobile Home, Manufactured Home and House Trailer Parks of the Oneida County Zoning and Shoreland Protection Ordinance and;

**Ordinance Amendment #3-2015** authored by the Planning and Development Committee to amend Section 9.54, Communication Structures of the Oneida County Zoning and Shoreland Protection Ordinance.

Additions noted by underline and deletions by ~~strikethrough~~:

### **Ordinance Amendment #1-2015: 9.32, ZONING PERMIT REQUIREMENT**

A zoning permit shall be obtained before:

- A. A structure is built, erected, placed, enlarged, altered or moved.
- B. A structure is structurally altered so as to change its use or increase the square footage of its floor area or vertical surface area.
- C. A structure is repaired when 50% or more of a structure's CEAV has been damaged or destroyed by fire or other catastrophic cause.
- D. The use of a structure or property is changed.
- E. Recreational vehicles used as a temporary dwelling and remaining on private property for thirty (30) consecutive days or more.

### 9.33 EXCEPTIONS TO ZONING PERMIT REQUIREMENT (#39-2004 & 05-2005)

- F. Recreational Vehicle/Camping Tent

~~1. Single Family Residential (District #2)~~

~~A zoning permit shall not be required for the placement of recreational vehicles or a camping tent on property, provided any of the following apply:~~

~~a.1. The recreational vehicle is being stored on property where a permanent dwelling has already been constructed.~~

~~— b. There is occasional guest parking and use of a recreational vehicle, not to exceed two consecutive weeks where a permanent dwelling has already been established; or~~

~~e.2. The recreational vehicle or camping tent is used on the owner's property for a period not to exceed two years while a permanent dwelling is under construction, provided that a zoning permit has been granted for the dwelling unit under construction and a notation was placed on the application for permit that a recreational vehicle is going to be used. Provisions of 13.24 of the Oneida County Private Onsite Wastewater Treatment System Ordinance (POWTS) applies.~~

~~d.3. The recreational vehicle is placed in a campground or recreational vehicle park in accordance with section 9.53 of this ordinance.~~

~~— e. The act of camping does not create a nuisance.~~

~~e.4. The recreational vehicle is used as a temporary dwelling, remaining on property for less than thirty (30) consecutive days.~~

~~— 2. Zoning Districts other than Single Family (District #2)~~

~~— A zoning permit shall not be required for the placement of a recreational vehicle or a camping tent on property. Recreational vehicle, tent, and/or primitive camping is allowed in all zoning districts in Oneida County as long as the act of camping does not create a nuisance. Any act of camping that would constitute a campground as defined in this ordinance must comply with the provisions found in Section 9.53.~~

G. Construction Trailers

A zoning permit shall not be required in order to place construction trailers on property during any construction period authorized by a conditional use permit.

H. Other Requirements Apply

The exceptions to the zoning permit requirements contained in this article do not excuse a property owner from applying for and obtaining all other permits required by the Oneida County Ordinances or other local, state or federal laws or regulations

**Ordinance Amendment #1-2015:**

CHAPTER 13

PRIVATE ONSITE WASTEWATER TREATMENT SYSTEM ORDINANCE

A new definition is to be added to the definitions section.

**DEFINITIONS.**

The following terms shall have the meanings indicated in this section.

Recreational Vehicle: A mobile home when fully expanded that contains 400 square feet or less of living space, and which is built and used, or intended to be used, primarily for temporary human habitation or recreational living quarters, and includes the plumbing, heating, air conditioning and electrical systems contained in the recreational vehicle. A recreational vehicle includes a motor home, park model, truck camper, travel trailer and camping trailer.

**Section 13.24**

Recreational Vehicles

1. All recreational vehicles used as a temporary dwelling and remaining on private property for thirty (30) consecutive days or more shall comply with the following requirements:
  - a. Obtain a sanitary permit for a private onsite waste water treatment system if the recreational vehicle is provided a connection to potable water and / or electric.
  - b. Obtain a non-plumbing sanitary system permit if not connected to water and / or electric.

**Ordinance Amendment #2-2015:**

9.52 MOBILE HOME, MANUFACTURED HOME AND HOUSE TRAILER PARKS  
(Amend. #10-2009)

A. Site and Size

Mobile home, manufactured home and house trailer parks shall comply with the following requirements:

1. No permit shall be issued for the establishment of such a park unless the park is located on a minimum of 20 acres of land.
2. Individual lot area:
  - a. An individual lot for a single-wide mobile home or manufactured home shall not be less than 8,000 square feet in area in mobile home and

- manufactured home parks that do not conform to the provisions of sec. 9.52 A(1) and (3), and sec. 9.52 B through I.
- b. An individual lot for a double-wide mobile home or manufactured home shall not be less than 16,000 square feet in area in mobile home and manufactured home parks that do not conform to the provisions of sec. 9.52 A(1) and (3), and sec. 9.52 B through I.
  - c. An individual lot not less than 8,000 square feet in area shall be required for each mobile home and manufactured home in mobile home and manufactured home parks that conform to the provisions of sec. 9.52 A(1) and (3), and sec. 9.52 B through I.
  - d. A mobile home, manufactured home or house trailer in excess of 32 feet in width shall be prohibited in mobile home, manufactured home or house trailer parks.
  - e. A mobile home, manufactured home or house trailer in excess of fifteen (15) feet in height shall be prohibited in mobile home, manufactured home or house trailer parks. This provision shall exclude community storm shelters in the height calculations.
  - f. The calculation for the minimum square footage required for the individual lot excludes the area necessary for the location of a primary and replacement septic system.
  - ~~g. The total square footage of all structures, including garages, on an individual lot shall not exceed 2,400 square feet.~~
  - ~~h. Enclosed attached additions to mobile homes, manufactured homes and house trailers shall be prohibited.~~
  - h. g. The density of house trailers permitted in a house trailer park shall be the same as the number of recreational vehicles permitted in recreational vehicle parks pursuant to sec. 9.53 A(3) of the ordinance.
3. Subject to the minimum requirements set forth in (2) above, each individual lot shall be at least 60 feet in effective width. Effective width shall mean the average distance between side lot lines measured on a line parallel to the front lot line.

The remainder of 9.52 remains the same.

### **Ordinance Amendment #3-2015: Section 9.54, Communication Structures**

9.54 is being deleted in its entirety and recreated to comply with Wisconsin State Statute 66.0404, mobile tower siting regulations.

#### 9.54 Mobile Tower Siting

##### **A. PURPOSE AND INTENT**

###### 1. Purpose

- The purpose of this ordinance is to regulate by zoning permit
- a. the siting and construction of any new mobile service support structure and facilities;
  - b. with regard to a class 1 collocation, the substantial modification of an

existing support structure and mobile service facilities; and c. with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities. It is the intent of Oneida County to regulate Mobile Service Support Structures and Facilities as permitted by Wisconsin State Statutes Chapter 66.0404.

## 2. Authority

The Oneida County Board has the specific authority under Wis Stat s. 59.69 and 66.0404 to adopt and enforce this ordinance.

## 3. Adoption of Ordinance

This ordinance, adopted by Oneida County, provides for the regulation by zoning permit; a. the siting and construction of any new mobile service support structure and facilities; b. with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and c. with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

[Since s. 66.0404 terms this as a “zoning ordinance” and references the statutory zoning authorities that envision prior Planning and Development Committee review and require a public hearing prior to adopting a new zoning ordinance, the county should also adhere those requirements.]

## **B. Definitions**

All definitions contained in Wis Stat s. 66.0404(1) are hereby incorporated by reference.

## **C. Exempt from Permitting.** The following shall be exempt from the requirement to obtain a zoning permit, unless otherwise noted.

1. The use of all receive-only television antenna and satellite dishes.
2. Amateur radio and/or receive-only antennas. This ordinance shall not govern the installation of any antenna that is owned and/or operated by a federally licensed amateur radio operator and is used for amateur radio purposes or is used exclusively for receive-only purposes.
3. Mobile services providing public information coverage of news events of a temporary or emergency nature.

## **D. Siting and Construction of Any New Mobile Service Support Structure and Facilities**

### 1. CLASS I COLLOCATION

a. Application Process

(1) County zoning permit is required for the siting and construction of any new mobile service support structure and facilities.

b. A written permit application must be completed by any applicant and submitted to the Oneida County Planning and Zoning Department. The application must contain the following information:

(1) The name and business address of, and the contact individual for, the applicant.

(2) The location of the proposed or affected support structure.

(3) The location of the proposed mobile service facility.

(4) If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

5. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.

6. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

2. A permit application will be provided by the county upon request to any applicant.

3. If an applicant submits to the County an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the County shall consider the application complete. If the County does not believe that the application is complete, the County shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
4. Within 90 days of its receipt of a complete application, the County shall complete all of the following or the applicant may consider the application approved, except that the applicant and the County may agree in writing to an extension of the 90 day period:
  - a. Notify the Town involved and all neighboring property owners within one-thousand (1000) feet.
  - b. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
  - c. Make a final decision whether to approve or disapprove the application.
  - d. Notify the applicant, in writing, of its final decision.
  - e. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
5. The county may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 2.f.
6. If an applicant provides the county with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the county provides the applicant with substantial evidence that the engineering certification is flawed.
7. The fee for the permit is \$1,500 per s. 66.0404(4)(d).
8. Limitations. Zoning Permits for Siting and Construction of any new mobile service support structure and facilities and zoning permits for Class

1 Collocations shall only be granted provided the following conditions exist:

- a. If the location of the proposed mobile service support structure or mobile service facility is on leased land, the lease agreement does not preclude the lessee from entering into leases on the site with other provider(s) and there is no other lease provision operating as a bar to collocation of other providers.
- b. The applicant has obtained Federal Communications Commission (FCC) license numbers and registration numbers if applicable.
- c. The applicant and/or agent have copies of Findings of No Significant Impacts (FONSI) statement from the Federal Communications Commission (FCC) or Environmental Assessment or Environmental Impact Study (EIS), if applicable.
- d. The applicant and/or agent have copies of the determination of no hazard from the Federal Aviation Administration (FAA) including any aeronautical study determination or other findings, if applicable.
- e. The applicant and/or agent have plans indicating security measures (i.e. access, fencing, lighting, etc.).
- f. For new mobile service support structures, the applicant has obtained a report prepared by an engineer licensed by the State of Wisconsin certifying the structural design of the tower and its ability to accommodate additional antennas.
- g. The applicant and/or agent have proof of liability coverage.
- h. The applicant and/or agent have copies of an Affidavit of Notification indicating that all operators and owners of airports located within five (5) miles of the proposed site have been notified via certified mail.
- i. The facility or collocation is designed to promote site sharing, such that space is reasonably available to co-locators and such that telecommunication towers and necessary appurtenances, including but not limited to parking areas, access road, and utilities, are shared by site users whenever possible.

## **E. CLASS 2 COLLOCATION**

### **1. Application Process**

- a. A county zoning permit is required for a class 2 collocation. A class 2 collocation is a permitted use in the county but still requires the issuance of the county permit.
- b. A written permit application must be completed by any applicant and submitted to the Oneida County Planning and Zoning Department. The application must contain the following information:
  - (1) The name and business address of, and the contact individual for, the applicant.
  - (2) The location of the proposed or affected support structure.
  - (3) The location of the proposed mobile service facility.
- c. A permit application will be provided by the county upon request to any applicant.
- d. A class 2 collocation is subject to the same requirements for the issuance of a zoning permit to which any other type of commercial development or land use development is subject, except that the maximum fee for a zoning permit shall be \$500.
- e. If an applicant submits to the county an application for a zoning permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the county shall consider the application complete. If any of the required information is not in the application, the county shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- f. Within 45 days of its receipt of a complete application, the county shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 45 day period:
  - (1) Make a final decision whether to approve or disapprove the application.
  - (2) Notify the applicant, in writing, of its final decision.
  - (3) If the application is approved, issue the applicant the relevant permit.

(4) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

2. The fee for the permit is \$500

**F. Information Report.** The purpose of the report under this subsection is to provide the county with accurate and current information concerning the telecommunications facility owners and providers who offer or provide telecommunications services within the county, or that own or operate telecommunications facilities within the county, to assist the county in enforcement of this subsection, and to assist the county in monitoring compliance with local, state and federal laws.

1. Information Report. All telecommunications tower owners of any new telecommunications tower shall submit to the Planning and Zoning Department a Telecommunications Facility Information Report (the "Report") within 45 days: (a) following zoning permit approval; (b) of receipt of a written request from the Oneida County Planning and Zoning Department; and (c) of any change in occupancy of the tower. The report shall include the tower owner name(s), address(es), phone number(s), contact person(s), and proof of bond as security for removal. The tower owner shall supply the tower height or current occupancy, if applicable, the number of collocation positions designated, occupied or vacant. This information shall be submitted on the county form provided and designated for such use, and shall become evidence of compliance.

**G. Removal/Security for Removal.**

1. It is the express policy of Oneida County and this ordinance that telecommunications towers be removed once they are no longer in use and not a functional part of providing telecommunications service and that it is the telecommunications provider's responsibility to remove such telecommunications tower and restore the site to its original condition or a condition approved by the Oneida County Planning and Zoning Department. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunications tower down to five (5) feet below the surface. After a telecommunications tower is no longer in operation, the provider shall have 180 days to effect removal and restoration unless weather prohibits such efforts. Permittee shall record a document with the Oneida County Register of Deeds showing the existence of any subsurface structure remaining below grade. Such recording shall accurately set forth the location and describe the remaining structure.

2. Security for Removal. The owner of any telecommunications tower shall provide to Oneida County, prior to the issuance of a zoning permit, a performance bond in an amount based on a written estimate of a qualified remover of said types of structures, or Twenty Thousand Dollars (\$20,000), whichever is less, to guarantee that the telecommunications tower will be removed when no longer in operation. Oneida County will be named as obligee in the bond and must approve the bonding company. The county may require an increase in the bond amount after five (5) year intervals to reflect increases in the Consumer Price Index. The provider shall supply any increased bond within a reasonable time, not exceeding sixty (60) days, after the county's request. A permittee may submit a letter of credit in the amount set forth above, or, in the alternative, a permittee with several sites in the county may submit a master bond to cover all of said sites. A master bond or a letter of credit may, in the committee's discretion, be in an amount sufficient to secure removal from one site if the master bond or letter of credit provides for replenishing any amount used as the master bond or letter of credit covers any other site in the county.

## **H. Structural, Design and Environmental Standards.**

1. Mobile Service Support Structure, Antenna and Facilities Requirements. All mobile service facilities and mobile service support structures, except exempt facilities as defined in subsection (c), shall be designed to reduce the negative impact on the surrounding environment by implementing the measures set forth below:
  - a. Mobile service support structures shall be constructed of metal or other nonflammable material, unless specifically permitted by the county to be otherwise.
  - b. Satellite dish and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their functions.
  - c. Equipment compounds shall be constructed of non-reflective materials (visible exterior surfaces only). Equipment compounds shall be designed to blend with existing architecture in the area or shall be screened from sight by mature landscaping, and shall be located or designed to minimize their visibility.
  - d. Mobile service facilities, support structures and antennas shall be designed and constructed in accordance with the State of Wisconsin Uniform Building Code, National Electrical Code, Uniform Plumbing Code, Uniform Mechanical Code, and Uniform Fire Code, Oneida County Subdivision Ordinance, Oneida County Sanitation Ordinance, Electronic Industries Association (EIA), American National Steel

Institute Standards (ANSI), and American National Standards Institute (ANSI) in effect at the time of manufacture.

- e. Mobile service facilities and support structures shall not interfere with or obstruct existing or proposed public safety, fire protection or Supervisory Controlled Automated Data Acquisition (SCADA) operation telecommunication facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the county.
2. Site Development. A leased parcel intended for the location of new mobile service facilities, mobile service support structures, and equipment compounds shall be located so as to permit expansion for mobile service facilities to serve all potential co-locators.
3. Vegetation protection and facility screening.

  - a. Except exempt facilities as defined in subsection (c), all mobile service facilities shall be installed in a manner to as to minimize disturbance to existing native vegetation and shall include suitable mature landscaping to screen the facility, where necessary. For purposes of this section, "mature landscaping" shall mean trees, shrubs or other vegetation of a minimum initial height of five (5) feet that will provide the appropriate level of visual screening immediately upon installation.
  - b. Upon project completion, the owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping as long as a telecommunication facility is maintained on the site.
4. Fire prevention. All mobile service facilities shall be designed and operated in accordance with all applicable codes regarding fire prevention.
5. Noise and Traffic. All mobile service facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. To that end the following measures shall be implemented for all mobile service facilities, except exempt facilities as defined in subsection (c):

  - a. Noise producing construction activities shall take place only on weekdays (Monday through Saturday, non-holiday) between the hours of 6:00 a.m. and 6:00 p.m., except in times of emergency repair, and
  - b. Backup generators, if present, shall be operated only during power outages and for testing and maintenance purposes.
6. Separation Requirements. Mobile service support structures shall

be separated by a minimum of 2640 feet, except that:

- a. Two (2) mobile service support structures may be permitted to be located within 100 feet of each other subject to approval of the Oneida County Planning and Development Committee.
- b. Camouflaged mobile service support structures are exempt from the separation between mobile service support structures requirement listed above.

## **I. PENALTY PROVISIONS**

1. Abandonment. Any antenna, mobile service facility, or mobile service support structure that is not operated for a continuous period of twelve (12) months shall be considered abandoned. Upon application, the Committee may extend the time limit to abandon once for an additional twelve-month period. Such extension shall be based on the finding that the owner or permit holder is actively seeking tenants for the site. After the expiration of the time periods established above, the following shall apply:

- a. The owner of such antenna, mobile service facility or mobile service support structure shall remove said antenna, mobile service facility or mobile service support structure, including all supporting equipment, building(s) and foundations to the depth as otherwise herein required within ninety (90) days of receipt of notice from the Planning and Zoning Department notifying the owner of such abandonment. If removal to the satisfaction of the Planning and Zoning Department does not occur within said ninety (90) days, the Oneida County Planning and Zoning Director may order removal utilizing the established bond as provided under subsection (G) and salvage said antenna, mobile service facility or mobile service support structure, including all supporting equipment and building(s). If there are two or more users of a single mobile service support structure, then this provision shall not become effective until all operations of the mobile service support structure cease.
- b. The recipient of a zoning permit allowing a mobile service support structure and facility under this section, or the current owner or operator, shall notify the Oneida County Planning and Zoning Department within 45 days of the date when the mobile service facility is no longer in operation.

2. Penalties. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall be subject to the penalty provisions set forth in 9.82, Enforcement and Penalties of the Oneida County Zoning and Shoreland Protection Ordinance and upon

conviction, may pay a forfeiture of not less than \$25.00 nor more than \$250.00, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the Planning and Zoning Department may seek injunctive relief from a court of record to enjoin further violations.

#### **J. SEVERABILITY**

1. If any provision of this ordinance or its application to any person or circumstance is held invalid according to Wis Stat s. 66.0404, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

Copies of the foregoing documents are available for public inspection during normal business hours at the Planning & Zoning Office, Oneida County Courthouse, 2<sup>nd</sup> Floor, Rhinelander Wisconsin 54501 or phone 715-369-6130. Copy of the Notice of Public Hearing is available online at [www.oneida.wi.gov](http://www.oneida.wi.gov). The Oneida County Zoning and Shoreland Protection Ordinance is available online at [www.oneida.wi.gov](http://www.oneida.wi.gov).

Anyone having interest may attend and be heard. Interested parties who are unable to attend may send written comments to the undersigned.

Dated this 29th day of January, 2015.

/s/Scott Holewinski, Chairman  
Oneida County Planning & Development Committee  
PO Box 400  
Rhinelander WI 54501